

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**HARTLINE DACUS BARGER
DREYER LLP,**

Plaintiff,

v.

HOIST LIFTTRUCK MFG., INC.,

Defendant.

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Civil Action No. **3:16-CV-1174-L**

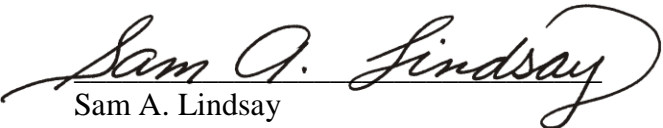
ORDER

Before the court is Defendant's Amended Motion for Relief from Default Judgment or, in the Alternative, Motion to Amend or Alter Judgment (Doc. 6), filed May 17, 2016. On January 6, 2017, United States Magistrate Judge Renee Harris Toliver entered the Findings, Conclusions, and Recommendation of the United States Magistrate Judge ("Report"), recommending that Defendant's motion be granted conditioned upon Defendant reimbursing Plaintiff for the costs it incurred as a result of the default. No objections were filed to the Report.

Having reviewed the motion, record, Report, and applicable law, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Defendant's conduct necessarily caused Plaintiff to incur attorney's fees and costs in obtaining a default and in responding to Defendant's Motion for Relief from Default Judgment. Under these facts, the court determines that Defendant should pay Plaintiff its reasonable attorney's fees and costs associated with obtaining the default and responding to Defendant's Motion for Relief from Default Judgment.

Accordingly, the court **grants** Defendant's Amended Motion for Relief from Default Judgment; **denies as moot** Defendant's Alternative Motion to Amend or Alter Judgment; and **sets aside** the Final Default Judgment issued by the state court on April 29, 2016, provided that Defendant pays Plaintiff its reasonable attorney's fees and costs incurred and associated with obtaining the default against Defendant and in responding to Defendant's Motion for Relief from Default Judgment. Further, Plaintiff **shall** file its motion for attorney's fees and costs incurred in obtaining and defending the default judgment, with supporting documentation, no later than **5:00 p.m. on February 7, 2017**. The parties **shall** meet and confer regarding the reasonable amount of fees and costs expended by Plaintiff in obtaining the default judgment from state court and defending it in district court. If the parties cannot agree, then the court will assess the reasonableness of the fees requested. The parties are strongly admonished to reach a resolution on the amount and reasonableness of attorney's fees and costs, as "[a] request for attorney's fees should not result in a second major litigation." *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983). The submission for fees may be filed **under seal**.

It is so ordered this 25th day of January, 2017.


Sam A. Lindsay
United States District Judge